

CONDITIONS AND INSTRUCTIONS TO VENDORS

1. **AUTHORITY TO PURCHASE:** The Administrator of the Division of Purchasing, Department of Administration or the Administrator's delegates are the only statutory agents authorized to execute contracts, purchase orders or leases for the procurement of goods and services, except for those agencies, amounts, or commodities specifically exempt by statute.
2. **PURCHASING PROCEDURES:** Beginning July 1, 2001 the state of Idaho, Division of Purchasing and its individual departments and agencies (State) start the transition to an electronic purchasing system. Vendors will be sent electronic e-mail notifications of bid opportunities (Request for Quotation – RFQ, Invitation to Bid – ITB, and Request for Proposal – RFP). Bidders, using a standard Internet Browser (Netscape version 4.5 or later or Microsoft Internet Explorer version 5.0 or later), may also view bid notice information on SiCommNet's Internet web site. ITB's RFP's, and RFQ's may be previewed on-line or downloaded and printed. Responses to ITB's or RFQ's may also be made electronically on-line. A preliminary summary of all priced responses from bidders to ITB's or RFQ's will be available for on-line viewing the day following the opening. Awards (purchase orders or contracts) and release or delivery orders against term contracts will be made and sent by e-mail notification to the lowest responsible bidder (contractor). Provisions may also be in place for the contractor to invoice the state agency electronically and for the contractor to be paid electronically by the State.
3. **ELECTRONIC SIGNATURES:** The SiCommNet BASEC Electronic Purchasing System processes all information electronically on the SiCommNet web site. Signatures by both the submitting vendor and the State when using the SiCommNet BASEC Electronic Purchasing System will be electronic and any requirements for manual signatures on bidding and purchasing documents are not necessary. Electronic signatures used with the SiCommNet BASEC Electronic Purchasing System are as fully binding and legal for the State's purchasing process as a manually affixed signature. Any reference in these CONDITIONS AND INSTRUCTIONS TO VENDORS to "signed," "signature," "manually signed in ink," or equivalents will include electronic signature, if the bidder is using the SiCommNet BASEC electronic purchasing system.
4. **DEFINITIONS:** For purposes of these CONDITIONS AND INSTRUCTIONS TO BIDDERS, the following terms have the specific meanings associated with them:
 - A. Bid - A written offer that is binding on the bidder to perform a contract to purchase or supply property or services in response to an Invitation to Bid (ITB).
 - B. Bidder- A vendor who has submitted a bid or quotation on specific property
 - C. Contract - Contract means any state written agreement, including solicitation or specification documents and the accepted portions of the solicitation, for the acquisition of property. Generally, the term is used to describe term contracts, definite or indefinite quantity or delivery contracts or other acquisition agreements whose subject matter involves multiple payments and deliveries. A contract shall also include any amendments mutually agreed upon by both parties.
 - D. Invitation To Bid - Means all documents, whether attached or incorporated by reference, utilized for soliciting formal sealed bids.
 - E. Offeror - A vendor who has submitted a proposal in response to a request for proposals for property to be acquired by the state.
 - F. Proposal - A written response including pricing information to a request for proposals that describes the solution or means of providing the property requested and which proposal is considered an offer to perform a contract in full response to the request for proposals. Price may be an evaluation criterion for proposals, but will not necessarily be the predominant basis for contract award.
 - G. Purchase Order - See also definition of Contract, typically used to acquire property. It is a notification to the contractor to provide the stated property, required material, equipment, supplies or services under the terms and conditions set forth in the purchase order. It may include the form of the state's acceptance of a bidder's proposal or bid.
 - H. Quotation. An offer to supply property in response to a request for quotation and generally used for small or emergency purchases
 - I. Request For Proposals - Includes all documents, whether attached or incorporated by reference, utilized for soliciting competitive proposals and is generally utilized in the acquisition of services or complex purchases.

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- J. Request for Quotation: - The document, form or method generally used for purchases solicited in accordance with small purchase or emergency purchase procedures.
 - K. Sealed - Includes bids electronically sealed and submitted in accordance with requirements or standards set by the Division and bids manually sealed and submitted.
 - L. SiCommNet BASEC Electronic Purchasing System - The electronic purchasing system called BASEC (Buying And Selling by Electronic Commerce) as hosted by Secure Internet Commerce Network, Inc. (SiCommNet) and used as the State's Internet Web based purchasing system.
 - M. Solicitation - Means an invitation to bid, a request for proposals or other document issued by the purchasing activity for the purpose of soliciting bids, proposals or offers to perform a contract.
 - N. State - This means the state of Idaho including each agency unless the context implies other states of the United States.
 - O. Vendor - A person or entity capable of supplying property to the state.
5. AWARD METHOD: Contracts may only be awarded to the "Lowest Responsible Bidder." The Lowest Responsible Bidder is defined by Idaho Code Section 67-5716(12) as "The responsible bidder whose bid reflects the lowest acquisition price to be paid by the state; except that when specifications are valued or comparative performance examinations are conducted, the results of such examinations and the relative score of valued specifications will be weighed, as set out in the specifications, in determining the lowest acquisition price." When deemed to be in the best interest of the State, and set forth in the bid documents, additional consideration may be given to the elements of discounts, supply location, quality of products or previous service, delivery time, or other elements.
6. DETERMINATION OF RESPONSIBILITY: The State reserves the right to make reasonable inquiry from the submitting vendor or third parties to determine the responsibility of a submitting vendor. Such inquiry may include but not be limited to inquiry regarding financial statements, credit ratings, references, and past performance. The unreasonable failure of a submitting vendor to promptly supply any requested information with respect to such submitting vendor may result in disqualification. Except as otherwise provided by law, information furnished by the submitting vendor pursuant to this provision may not be disclosed outside the Division of Purchasing or using agency without prior written consent of the submitting vendor.
7. ADDENDA: It will be the vendor's responsibility to check for any addenda prior to submitting a bid, proposal, or quotation. In the event it becomes necessary to revise any part of the solicitation documents, addenda will be made available. Information given to a vendor will be available to all other vendors if such information is necessary for purposes of submitting a bid or proposal or if failure to give such information would be prejudicial to uninformed vendors.
8. NOTICE OF CONTRACT EFFECTIVENESS: It is understood that this document or any resulting contract or amendment is not effective until the appropriate State purchasing official has signed (which signature may be electronic) the document, contract, or amendment, the effective or award date has been completed on the document by the State purchasing official, and that date has arrived or passed. Neither the vendor nor his organization will provide goods or render services to the State under the terms of this document, contract, or amendment until such document, contract, or amendment has been fully signed by the State purchasing official and the contract has become effective. Furthermore, the State is in no way responsible for reimbursing the vendor for goods provided or services rendered prior to the appropriate signature by the State purchasing official and the arrival of the effective date of the contract.
9. INCURRING COSTS: The state of Idaho is not liable for any cost incurred by vendors prior to the issuance of an agreement, contract or purchase order.
10. ECONOMY OF PREPARATION: If submitting a proposal, please note that proposals should be prepared simply and economically, providing a clear, complete and concise description of the offeror's capabilities to satisfy the State's requirements.
11. SPECIFICATIONS: Specifications describe the property the State wants to acquire. If you are unsure of what the State wants, please present written questions within prescribed time periods to the appropriate purchasing official. Any variance from the specifications must be clearly pointed out in writing by the vendor, including information for comparison purposes; otherwise it will be considered that those items are in strict compliance with the specifications. To be valid, all such exceptions or variances taken must be submitted with or on the original quotation, bid, or proposal document. Also, see the description of Specification Appeals below. Idaho Code Section 67-5726 (3) reads: "No officer or employee shall conspire with a vendor or its agent, and no vendor or its agent shall conspire with an officer or employee, to influence or attempt to influence the award of a contract, or to deprive or attempt to deprive a vendor of an acquisition award." Idaho Code Section 67-5730 (2) reads: "Vendors may be disqualified for any of the following reasons: (b) Attempts by whatever means to cause acquisition specifications to be drawn so as to favor a specific vendor." The State is prohibited from

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accepting property that does not meet the minimum bid specifications pursuant to Idaho Code Section 67-5726(4) and Section 67-5736.

12. **CONFLICT OF INTEREST:** Idaho Code Section 67-5726(6) reads: "No vendor or related party, or subsidiary, or affiliate of a vendor may submit a bid to obtain a contract to provide property to the state, if the vendor or related party, or affiliate or subsidiary was paid for services utilized in preparing the bid specifications or if the services influenced the procurement process." To prevent the perception of a conflict of interest, the successful vendor will be prohibited from competing as a contractor or subcontractor for any project(s) that may result, directly or indirectly, from the implementation of recommendations made during a project.
13. **LAWS:** The laws governing the State's purchases of goods and services are found in the Idaho Code Section 67-5714 through Section 67-5744 and IDAPA 38.05.01, both available on the Internet at <http://www2.state.id.us/adm/purchasing>. Attention is directed to the fact that it is the vendor's responsibility to conform to ALL applicable federal, state and local statutes or other applicable legal requirements. The information provided herein is intended to assist vendors in meeting applicable requirements but is not exhaustive and the state of Idaho will not be responsible for any failure by vendor to meet applicable requirements.
14. **PREFERENCE FOR IDAHO SUPPLIERS FOR PURCHASES** (Idaho Code Section 67-2349): The law requires providing a reciprocal preference for Idaho domiciled vendors on purchases of materials, supplies, equipment, or services. The law and any applicable percentage preference are ONLY applicable to vendors domiciled outside Idaho in locations granting THEIR domiciled vendors a preference. It is not applicable to domiciled vendors in locations without a preference law or a reciprocal preference law. The vendor may be asked at anytime to provide information on domicile. If the vendor is unsure of where the business is domiciled, the following "rules of thumb" may help:

Corporation:	Domiciled where chartered (state of incorporation).
Partnership:	Domiciled where permanent headquarters of business is located.
Sole Proprietor:	Domiciled where permanent headquarters of business is located.

15. **ADMINISTRATIVE APPEALS:** The laws applicable to administrative appeals are set forth at Section 67-5733, Idaho Code. In summary, they are:
- A. **Specification Appeal:** Beginning with the day a vendor receives the solicitation document and ending ten (10) working days later, the vendor may challenge the specifications. The vendor must notify, in writing, the Administrator of the Division of Purchasing of his intention to challenge the specification and specifically state the exact nature of the challenge. The challenge shall describe the location of the challenged portion or clause in the specification document and explain why the provision should be struck, added or altered, and shall contain suggested corrections. Upon receipt of the challenge, the Administrator for the Division of Purchasing may either deny the challenge or request the Director of the Department of Administration to appoint a determinations officer. If a determinations officer is appointed, all vendors invited to bid shall be notified of the appeal and the appointment of a determinations officer and may indicate in writing their agreement or disagreement with the challenge within five (5) days. The determinations officer may require that the specifications be rewritten, rewrite the specifications himself and/or reject all or any part of the challenge.
- B. **Bid Rejection Appeal:** Within five (5) working days following receipt of notice of rejection, a bidder may appeal the decision to the Director of the Department of Administration. This appeal is only available to a vendor whose bid is found non-responsive (i.e., a bid that does not comply with the bid solicitation and specifications). It does not apply to a vendor whose bid is considered but who is determined not to be the lowest responsible bidder. The Director may either deny the appeal or appoint a determinations officer to review the record and submit a recommended order to the Director. Upon receipt of the determination officer's written recommendation, the Director may sustain, modify or reverse the non-responsive bid decision.
- C. **Bid Award Appeal:** A vendor whose bid is considered may, within five (5) working days following receipt of notice that it is not the lowest responsible bidder, apply to the Director of the Department of Administration for appointment of a determinations officer. The appeal must set forth in specific terms the reason why the Administrator's lowest responsible bidder decision is erroneous. Upon receipt of the appeal, the Director shall, within three (3) working days, either (i) deny the appeal; (ii) appoint a determinations officer to review the record and provide written recommendations; or (iii) appoint a determinations officer with authority to conduct a contested case hearing within the context of the Idaho Administrative Procedures Act. Upon receipt of the determinations officer's written recommended order, the Director shall either sustain, modify or reverse the Division of Purchasing's decision.
16. **SUBMISSION FORMS - MANUAL SUBMISSIONS:** For manually sealed and submitted bids or proposals, submitting vendors must use the State's supplied bid or proposal form when submitting their bid or proposal. The solicitation signature page form MUST be manually signed in ink by an authorized agent of the submitting vendor and returned with the submission package. Bids or proposals not submitted with the signature page form shall be found non-responsive and will not be considered. Incomplete and/or unsigned documents will be cause for non-acceptance and a finding of non-responsiveness. The signature page must contain an ORIGINAL HANDWRITTEN signature executed in INK and be returned with the relevant bid solicitation documents. PHOTOCOPIED SIGNATURES or FACSIMILE SIGNATURES are

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NOT ACCEPTABLE. Submissions must be completed either in ink or typewritten. Forms or figures written in pencil are not acceptable. Mistakes should not be erased but may be crossed out and corrections inserted next to the errors and initialed IN INK by the person signing. THIS INCLUDES BUT IS NOT LIMITED TO CORRECTIONS MADE USING WHITEOUT CORRECTION FLUID AND TYPEWRITER CORRECTION TAPE.

SUBMISSION FORMS – MANUAL QUOTATIONS: For manually submitted quotations, the bidder may use any response and submission form authorized by the Request for Quotation, including oral, telephonic, facsimile, e-mail, or regular mail.

SUBMISSION FORMS – ELECTRONIC: For vendors using the Sicommnet BASEC electronic purchasing system, proper completion of the electronic forms is required.

17. **BID AND REQUEST FOR PROPOSAL SUBMISSIONS - MANUAL SUBMISSIONS:** The bid package or envelope must be SEALED and plainly marked in the LOWER left corner with the following: (i) the name of the item or service being sought; (ii) opening date and time; and (iii) the solicitation number. This information is found in the bid solicitation information. The submitting vendor's return address must appear on the envelope or package. All bid sheets and the bid solicitation signature form containing an original authorized signature executing the bid must be submitted in a sealed envelope or package. (Do not respond to more than one bid number in the same envelope!) A bid submitted using "Express/Overnight" services must be shipped in a separate sealed inner envelope/package identified as stated above, and enclosed inside the "Express/Overnight" shipping container or package. No responsibility will attach to the State, or to any official or employee thereof, for the pre-opening of, post-opening of, or the failure to open a bid not properly addressed and identified. DO NOT FAX YOUR BID. Bids must be submitted in writing. No oral, telephone, facsimile, telegraphic, or late bids will be considered. Hand-delivered bids must be received at the State's reception desk (or other designated bid depository) and time and date stamped prior to the bid opening date and time. IT IS THE BIDDER'S RESPONSIBILITY TO TIMELY SUBMIT THE BID IN A PROPERLY MARKED ENVELOPE, PRIOR TO THE SCHEDULED BID OPENING, FOR RECEIPT IN SUFFICIENT TIME TO ALLOW THE BID TO BE TIME AND DATE STAMPED.

BID SUBMISSIONS - ELECTRONIC: For bids submitted by means other than manual methods, bidders using the SiCommNet BASEC Electronic Purchasing System must complete all steps in the bid submission process prior to the scheduled bid opening date and time.

18. **TABULATION INFORMATION – MANUAL/ELECTRONIC OPENING:** Electronic and manually distributed solicitations will contain detailed information regarding closing/opening dates and times. Vendors may attend openings of manually submitted solicitations at the place, date, and time specified on the solicitation. At that time, only the names of bidders will be announced and no other information will be available until the award of the solicitation. Persons may request tabulation information when it becomes available. Depending upon the complexity of the solicitation, tabulations may take as long as thirty (30) days. No tabulation information will be given over the phone.

TABULATION INFORMATION – ELECTRONIC OPENINGS: Unless otherwise noted in the solicitation documents, electronic solicitations will close at 5:00 p.m. By 8:00 a.m. the following business day, vendors may, except for RFP's, view a preliminary price tabulation on the Internet.

19. **TERMS AND CONDITIONS OF ENSUING CONTRACT:** Any ensuing contract will be governed by the State's Standard Contract Terms and Conditions, any applicable Special Terms and Conditions of the State that are included in the bid solicitation and, if applicable, any negotiated provisions. NO ADDITIONAL OR SUPPLEMENTAL TERMS AND CONDITIONS SUBMITTED BY THE BIDDER AS PART OF THE BID RESPONSE SHALL BE EVALUATED OR CONSIDERED. ANY AND ALL SUCH ADDITIONAL TERMS AND CONDITIONS SHALL HAVE NO FORCE AND EFFECT AND SHALL BE INAPPLICABLE TO THIS BID AND ENSUING CONTRACT. IF ADDITIONAL OR SUPPLEMENTAL TERMS AND CONDITIONS EITHER INTENTIONALLY OR INADVERTENTLY APPEAR SEPARATELY IN TRANSMITTAL LETTERS, SPECIFICATIONS, LITERATURE, PRICE LISTS OR WARRANTIES, IT IS UNDERSTOOD AND AGREED THAT THE GENERAL AND ANY SPECIAL CONDITIONS IN THIS BID SOLICITATION ARE THE ONLY CONDITIONS APPLICABLE TO THE BID AND ANY ENSUING CONTRACT AND THE BIDDER'S AUTHORIZED SIGNATURE AFFIXED TO THE BID SOLICITATION FORM ATTESTS TO THIS. IF YOU CONDITION YOUR BID ON SUCH ADDITIONAL TERMS AND CONDITIONS, YOUR BID WILL BE DEEMED NONRESPONSIVE. IF YOU HAVE QUESTIONS CONCERNS REGARDING THE STATE'S TERMS AND CONDITIONS, ADDRESS THEM IN WRITING TO THE APPROPRIATE PURCHASING OFFICIAL WITHIN THE TIME PERIOD PRIOR TO THE SOLICITATION CLOSING DATE.
20. **LATE SUBMISSIONS:** It is the vendor's responsibility to ensure that its bid, quotation, or proposal is delivered or electronically submitted to the place designated for receipt on or before the date and time specified for opening. Late submissions will not be considered under any circumstances. Submissions may not be completed, amended or clarified on the face of the submission after the official opening time. The official time used in the receipt of manual submissions is the prevailing local time as evidenced by the automatic time/date stamp located in the State's purchasing office or other designated bid depository location. Electronic submissions will use Sicommnet's BASEC electronic purchasing system's time to determine receipt time.. No responsibility will be assumed for delays in the delivery of mail by the U.S. Post

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Office, private couriers, the intra-state mail system, or for the failure of any computer or electronic equipment. LATE SUBMISSIONS WILL BE DECLARED REJECTED AND RETURNED TO THE SUBMITTING VENDOR. NO DEVIATIONS WILL BE ALLOWED.

21. **PRE-OPENING SOLICITATION WITHDRAWALS OR MODIFICATION - MANUAL:** Manual submissions may be withdrawn or modified only as follows: Bids or proposals may be withdrawn or modified prior to the closing by written communication signed in ink by the submitting vendor. Bids or proposals may be withdrawn prior to closing in person upon presentation of satisfactory evidence establishing the individual's authority to act on behalf of the submitting vendor. Bids or proposals may be withdrawn or modified by telegraphic communication provided the telegraph is received prior to the closing. The withdrawal or modification, if done via telegraph, must be confirmed in writing, signed in ink. The written confirmation must be mailed and postmarked no later than the closing date. If the written confirmation of the withdrawal or modification is not received within two (2) working days from the closing date, no consideration will be given to the telegraphic modification. Any withdrawing or modifying communication, including a telegram, must clearly identify the solicitation. A modifying letter or telegram should be worded so as not to reveal the amount of the original bid or proposal. No other form of withdrawal or modification (e.g., telephone or facsimile) will be accepted.

PRE-OPENING SOLICITATION WITHDRAWALS – ELECTRONIC: A submitting vendor using the Sicommnet BASEC electronic purchasing system may withdraw a previously submitted solicitation response at any time prior to the closing by submitting another response with a zero unit price for each affected line item of the solicitation and inserting the words "NO BID" in the comments field for each affected line item. A vendor may modify a previously submitted solicitation response at any time prior to the closing by submitting another solicitation response.

PRE-OPENING SOLICITATION MODIFICATION – ELECTRONIC: A submitting vendor using the Sicommnet BASEC electronic purchasing system may modify or change a previously submitted solicitation response at any time prior to the closing by submitting another solicitation response which modifies the affected line items. Each additional response or submission has the effect of canceling the previous response and replacing it with the submitting vendor's most current solicitation response.

22. **REJECTION OF BIDS AND CANCELLATION OF BID SOLICITATION:** Prior to the issuance of a purchase order or contract, the Administrator of the Division of Purchasing shall have the right to accept or reject all or any part of a bid or proposal or any and all bids or proposals when: (i) it is in the best interests of the state of Idaho; (ii) the bid does not meet the minimum bid specifications; (iii) the bid is not the lowest responsible bid; (iv) a finding is made based upon available evidence that a bidder is not responsible or is otherwise incapable of meeting specifications or providing an assurance of ability to fulfill contract requirements; or (v) the item offered deviates to a major degree from the bid specifications, as determined by the Administrator (minor deviations, as determined by the Administrator, may be accepted as substantially meeting the bid requirements of the state of Idaho). Deviations will be considered major when such deviations appear to frustrate the competitive bidding process or provide a bidder an unfair advantage. Prior to the issuance of a purchase order or contract, the Administrator of the Division of Purchasing shall have the right to reject all bids, proposals, or quotations or to cancel a solicitation or request for quotations. Cancellation may be for reasons that include but are not limited to: (i) inadequate or ambiguous specifications; (ii) specifications have been revised; (iii) property is no longer required; (iv) there is a change in requirements; (v) all bids are deemed unreasonable or sufficient funds are not available; (vi) bids were not independently arrived at or were submitted in bad faith; (vii) it is determined that all requirements of the bid process were not met; (viii) insufficient competition; or (ix) it is in the best interests of the state of Idaho.
23. **SPECIAL BRANDS:** Special brands, when named, are only to indicate the standard of quality desired. Submitting vendors may bid or propose their equal, except when specifications require no substitution. Offerings on other brands, if their equal, may be considered, but brands or descriptions of the equal must be plainly stated. "Equal" means any other brand that is equal in use, quality, economy, and performance to the brand listed. If the submitting vendor lists a trade name and/or catalog number, the State will assume the item meets the specifications, unless the submission clearly states it is an alternate, and describes specifically how it differs from the item specified. **MULTIPLE OR ALTERNATE BIDS WILL NOT BE ACCEPTED UNLESS SO STATED IN THE SPECIFICATIONS.**
24. **BURDEN OF PROOF: ANY VARIATIONS** of brand names or deviations from the specifications **MUST BE CLEARLY STATED.** It shall be the responsibility and burden of the submitting vendor to furnish the State **WITH ITS ORIGINAL SUBMISSION** sufficient data to determine if the goods or services offered conform to the specifications.
25. **DISCOUNTS:** Discounts, when applicable, shall be shown in a single percentage figure, e.g., 57-1/4% instead of 50, 10, and 5 percent. **DISCOUNTS FOR PROMPT PAYMENT WILL BE ACCEPTED BUT CANNOT BE USED TO DETERMINE THE LOWEST BID.**
26. **UNIT PRICES GOVERN:** Unit prices shall govern, but please extend the amount column, to avoid mistakes. **IMPORTANT:** Prices must be given in the "unit of quantity" asked for. Example: If the documents ask for an item by the "piece," bid by the "piece". If the documents ask for an item by the "foot," bid by the "foot".

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27. **FIRM PRICES:** No bid, proposal, or quotation will be accepted if marked "Price prevailing at time of delivery." After the date and time of closing, no price increase will be allowed, unless otherwise stipulated by the State's bid solicitation documents.
28. **ORAL INFORMATION:** The State will not be responsible for any verbal or oral information given by the requisitioning agency regarding a bid. Questions concerning a solicitation must be directed in writing to the State agency or entity issuing the solicitation in sufficient time prior to the opening to permit an answer in writing. Bids, proposals, or quotations deviating from the specifications by any means other than an authorized written addendum will be subject to rejection. Reliance on any oral representation is at the vendor's sole risk. Unless otherwise provided in the solicitation documents, questions will not be considered if received less than five (5) working days before the opening.
29. **PAYMENT:** Unless otherwise specified in the solicitation documents, payment will be made after acceptance of the conforming property and after receipt by the requisitioning agency of a proper invoice. In general, no advance or progress payments will be made.
30. **PACKAGING:** Bidders are to list their standard packaging for the items listed if other than specified.
31. **GOVERNMENTAL USE ONLY:** Unless otherwise noted in the bidding documents, all purchases made pursuant to the bidding documents are for the internal use of government only and will not be resold to the general public at retail. Upon request, the State will issue a certification that all purchases made pursuant to the bid documents are intended for the internal use of government and will not be resold to the general public at retail.
32. **PUBLIC RECORDS:** The Idaho Public Records Law, Idaho Code Sections 9-337 through 9-348, allows the open inspection and copying of public records. Public records include any writing containing information relating to the conduct or administration of the public's business prepared, owned, used, or retained by a state or local agency regardless of the physical form or character. **ALL, OR MOST, OF THE INFORMATION CONTAINED IN YOUR RESPONSE TO THE STATE'S SOLICITATION WILL BE A PUBLIC RECORD SUBJECT TO DISCLOSURE UNDER THE PUBLIC RECORDS LAW.** The Public Records Law contains certain exemptions. One exemption potentially applicable to part of your response may be for trade secrets. Trade secrets include a formula, pattern, compilation, program, computer program, device, method, technique or process that derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons and is subject to the efforts that are reasonable under the circumstances to maintain its secrecy. If you consider any element of a bid or proposal to be a trade secret, or otherwise protected from disclosure, you **MUST** so indicate by marking **EACH PAGE** of the pertinent document. Include the specific basis for the your position that it be treated as exempt from disclosure. Marking your entire bid or proposal as exempt is not acceptable or in accordance with the bid documents or the Public Records Act and **WILL NOT BE HONORED**. In addition, a legend or statement on one (1) page that all or substantially all of the response is exempt from disclosure is not acceptable or in accordance with the Public Records Act and **WILL NOT BE HONORED**. **PRICES QUOTED IN YOUR BID OR PROPOSAL ARE NOT A TRADE SECRET.** The State, to the extent allowed by law and in accordance with these terms and conditions and the solicitation documents, will honor a designation of nondisclosure. You will be required to defend any claim of trade secret or other basis for nondisclosure in the event of an administrative or judicial challenge to the State's nondisclosure. Any questions regarding the applicability of the Public Records Law should be addressed to the Division of Purchasing or should be presented to your own legal counsel - **PRIOR TO SUBMISSION**.
33. **PRIOR ACCEPTANCE OF DEFECTIVE BIDS OR PROPOSALS:** Due to the limited resources of the State, the State generally will not completely review or analyze bids or proposals that appear to fail to comply with the requirements of the solicitation documents or that clearly are not the best bids or proposals, nor will the State generally investigate the references or qualifications of those who submit such bids or proposals. Therefore, any acknowledgment that the selection is complete shall not operate as a representation by the State that an unsuccessful bid was responsive, complete, sufficient, or lawful in any respect.
34. **LENGTH OF CONTRACT:** Pursuant to Idaho Code Section 67-5717(9), the State may enter into contracts, including leases and rentals, for periods of time exceeding one (1) year provided that such contracts contain no penalty to or restriction upon the State in the event cancellation is necessitated by a lack of financing for any such contract or contracts.
35. **LEASE-PURCHASE OPTIONS:** Idaho Code Section 67-5721 reads, in part, as follows: "Any exercise of an option to acquire (goods, services, parts, supplies and equipment), or any other procedure which shall serve to pass title to the state where no passage of title existed before, shall be deemed to be a new acquisition and prior to execution all applicable provisions and procedures of this chapter [67-5714 through 67-5744] shall be exercised." (NOTE: This provision is NOT applicable to Time Purchase or Installment Purchase Contracts).